



# National Consumers League

Founded 1899

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November 13, 1998

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*Office of Secretary*  
Federal Communications Commission  
1919 M Street NW, Room 222  
Washington, DC 20554

RE: Common Carrier Docket No. 98-170

Dear Ms. Sales:

Robert R. Nathan  
*Honorary Chair*  
Esther Peterson (1906-1997)  
*Honorary President*

The National Consumers League respectfully submits the enclosed comments to the Federal Communications Commission in the matter of telephone billing. NCL is a private, nonprofit membership organization that has represented consumers in the marketplace and the workplace since its founding in 1899.

Because our National Fraud Information Center receives a significant number of complaints from consumers concerning telephone "slamming" and "cramming," we believe that we can provide insight on how billing confusion makes consumers vulnerable to fraud and how the problem should be addressed by the FCC. We appreciate the opportunity to share our views in this matter.

Sincerely yours,

Susan Grant  
Vice President, Public Policy  
Director, NFIC

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cc: Anita Cheng, FCC Common Carrier Bureau  
International Transcription Service, Inc.

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**Representing Consumers for 99 Years**

## **BEFORE THE FEDERAL COMMUNICATIONS COMMISSION**

In the Matter of  
Truth-in-Billing and Billing Format

CC Docket No. 98-170

### **Comments of the National Consumers League**

The National Consumers League, a nonprofit organization, has represented consumers in the marketplace and the workplace since its founding in 1899. Increased competition in the telecommunications marketplace has resulted in more choices for products and services from a multitude of vendors. Unfortunately, it has also resulted in consumer confusion. In a Louis Harris and Associates survey conducted for NCL in three western cities in September of 1997, sixty-four percent of the respondents said that "having more than one telephone company makes billing confusing." Fraudulent companies have taken advantage of this to switch consumers' phone service or add unauthorized charges for optional services to their bills, hoping to escape quick detection. We believe that consumers need clear information in a readily understandable format about the telephone services for which they are being billed in order to prevent such fraud and ensure a fair competitive marketplace.

#### **NCL's Role in Fighting Telephone-billed Fraud and Abuse**

NCL plays an active role in educating consumers and assisting them with problems related to fraudulent telephone charges. In 1992, NCL created the National Fraud Information Center, a unique hotline at 1-800-876-7060 which consumers can call for advice about telephone solicitations and to report possible telemarketing fraud. Launched in 1996, the NFIC web site, [www.fraud.org](http://www.fraud.org), also offers tips on telemarketing fraud, including "slamming," "cramming," and fraudulent pay-per-call services.

NCL also began to provide advice and assistance concerning Internet fraud in 1996. Consumers' reports about possible telemarketing or Internet fraud are uploaded daily to the database maintained by the Federal Trade Commission and the National Association of Attorneys General. In addition, the NFIC relays consumers' fraud reports to more than 160 selected federal, state and local law enforcement agencies, including the FCC.

To further promote consumer education, NCL coordinates the Alliance Against Fraud in Telemarketing, a coalition comprised of representatives from consumer groups, law enforcement agencies, trade associations, corporations, and educational institutions. The AAFT conducts meetings and produces materials designed to educate its members and the public about telemarketing fraud and abuse. NCL also works with the media and in partnership with others to raise public awareness about telecommunications-related issues.

### **The Rising Tide of Telephone-billed Fraud**

The NFIC began to track reports about telephone slamming in January of 1997 and added the category of cramming in late October of that year. By the end of 1997, slamming was the fifth most frequent type of telemarketing fraud reported to the NFIC; by the end of June, 1998 it had risen to #3. In fact, more reports about slamming were made to the NFIC in the first six months of 1998 (999) than in all of 1997 (805). In just the last two months of 1997, the NFIC received 105 reports of cramming; by the middle of 1998, cramming was the #1 telemarketing fraud. Nearly twice as many cramming reports were received in the first six months of 1998 (2071) than the #2 telemarketing fraud, advance fee loans (1092). The NFIC also receives a significant number of fraud reports concerning pay-per-call services, which ranked as the fourth most common telemarketing fraud in 1997 and at #7 in the first six months of 1998.

These statistics are just the tip of the iceberg. We know that many more consumers report problems with slamming, cramming and other telephone-billed frauds to the telephone companies who charged them or who billed them on behalf of the service providers. In the same 1997 Harris survey, only seven percent of the consumers who said they had been slammed reported the problem to a government agency, and a mere 2 percent reported it to another entity such as the NFIC.

From all accounts, the trend toward using the telephone billing system as a conduit for fraud is clearly rising. This is nowhere more apparent than by looking at the methods of payment reported to the NFIC. In the first six months of 1998, nearly half of the payments (48 percent) consumers reported making in connection with telemarketing fraud were via their telephone bills.

#### **The Need for Truth-in-Billing**

According to the NFIC hotline staff, consumers are confused about the charges on their telephone bills. Many do not notice that they have been slammed or crammed immediately. Sometimes slamming victims only discover that their carriers have been switched when their calling cards no longer work or if they receive a "farewell" call from their original carriers. Often it is the fact that their phone bills seem higher than usual that tips consumers off to having been slammed.

Cramming victims find it even harder to spot unauthorized charges because they are often for relatively small amounts. However, since most of these charges for unwanted services are recurring, they can add up over time. It is not uncommon for consumers who contact the NFIC to complain about several months of charges; in many cases charges they have already paid.

We believe that fraudulent service providers take advantage of several factors to deceive

consumers: the fact that telephone bills are many pages long and that only the summary, not the details of the charges, appears on the first page; the deliberate use of company names that sound like long-distance plans that might be provided by the consumer's original carrier (e.g. Minimum Rate Pricing); the use of vague terms such as "monthly service fee" and "special plan" to describe fees for recurring optional services; confusion about fees associated with government-mandated company expenses (Monthly Access Charge); lack of clear information on the bills about the service providers making those charges, consumers' rights to dispute charges, and who is responsible for handling those disputes.

Fraudulent providers also exploit the ease with which consumers can be billed through the telephone billing system for unauthorized services. Because there is no requirement for the billing entity to notify consumers in advance or to verify that they agreed to purchase the services, consumers do not usually realize that they are being inappropriately charged until they receive the bills. Consumers are essentially billed for credit transactions without the benefit of any of the disclosures or protections to which they would normally be entitled under truth-in-lending regulations.

The FCC can and should address these problems. However, in doing so the FCC should make clear that its rules are not intended to preempt the authority of other federal or state agencies concerning misleading advertising or deceptive practices.

### **Key Elements of Truth-in-Billing**

#### **Advance Notice**

We believe that consumers should be notified by the billing entity before charges commence for service that will be billed on a recurring basis. Some industry representatives have

suggested that advance notice would be too costly and ineffective. However, the cost could be factored into the contracts between the billing entities and the service providers. Concern has also been expressed that if a notice is mailed, consumers will think it is just another solicitation and toss it out, a problem with negative option notices. However, since the notice would be from the consumer's local telephone company, not a service provider whose name may be unfamiliar to the consumer, it would be more likely to be read. Moreover, the envelope could be marked in such a way as to alert consumers that it contains important information about changes in their telephone service.

Notice could be also be conveyed by other methods. For example, Southwestern Bell recently announced that it would now automatically notify customers when long distance service provider changes are submitted. A recorded message is transmitted to the customer and includes a toll-free number to call for questions.

Providing consumers with advance notice about either a new provider for existing ongoing service, such as long-distance, or a recurring charge for a new service, such as voice mail, would help prevent fraud and abuse of the telephone billing system. It would ensure that consumers understand the terms of service and give them the opportunity to contest unauthorized service *before* they are billed. It would reduce the potential for protracted billing disputes and give billing entities a quick indication if there is a problem with a service provider.

### **Organization of Bill**

Many telephone billing entities realize that their bills are not "consumer friendly" and are taking steps to change them. We believe that the FCC should provide general guidance for billing format to ensure that the relevant information is clear and conspicuous. Billing entities should be

encouraged to explore the use of type size, color, bolding and other methods to convey the information most effectively.

At minimum, the first page should list the names of all service providers on whose behalf charges are being billed and indicate the types of services they are providing. A special section on this page should be used to highlight new providers or services. The page numbers where the details of each provider's charge appear should also be noted.

In the subsequent pages of the bill, we suggest that charges should be organized by service provider. Organizing bills by type of service would lead to confusion, especially when single providers offer packages for multiple services. However, each service included in a package should be clearly itemized and described.

Because charges for some services may be deniable and charges for other services from the same provider might not be, it would be important to have a universal symbol that would tell consumers when they have the right to refuse to pay disputed charges without fear that their telephone service will be terminated. Many consumers who contact the NFIC about slamming and cramming are apprehensive about losing their phone service. Fraudulent service providers exploit that fear by threatening consumers with termination when they question the charges.

After considering comments, the FCC should conduct consumer testing before issuing a final rule to determine which method of billing organization works best.

### **Full and Clear Descriptions of Services**

We believe that this is an area where the FCC must take proscriptive action so that services are uniformly described, much the way that the Food and Drug Administration proscribes standard terms for different types of food. Providers who want to use their own brand names or

marketing terms should be obliged to also show the standard FCC description for each service.

Developing these standard terms should be a collaborative process in which companies, regulators and consumer advocates all participate. As with the billing format, proposed service descriptions must be tested with consumers to ensure that they are clearly understood.

Another issue is how company expenses related to line access and universal service may be shown on consumers' bills. We believe that it is deceptive to describe these charges to consumers as government-related fees. Indeed, we are concerned about whether these costs should be separately itemizing these expenses on the bills at all. While companies should be able to pass these expenses along to their customers if they wish, separating them from other costs of doing business can make the rates that consumers pay for their calls seem lower than they really are and makes it difficult to comparison shop for telephone services. Moreover, some fraudulent providers have exploited the confusion caused by these charges to make their unauthorized charges appear to be government fees. If these costs continue to be shown as separate charges, the FCC should proscribe a method of describing them so that consumers are not misled and can clearly understand the total cost of service. The FCC must also ensure that the charges accurately reflect the proportionate costs and that consumers are not being overcharged.

One more issue that we would like the FCC to address is billing for services that are not related to telecommunications. We believe that this is inappropriate and confusing for consumers and that items such as club memberships and debit cards should not be included in the service descriptions that are developed.

### **Consumer Inquiry and Complaint Information**

Consumers who contact the NFIC about slamming, cramming and other telephone-billed




fraud are often confused about who their complaints are against and do not have the information needed for them or anyone assisting them to take action. At minimum, the FCC should require the bills to clearly list: name and address of service provider; name, address and toll-free number of any third-party to which inquiries and complaints should go; what to do if the problem is not resolved by the inquiry/complaint contact; and the consumer's rights concerning disputed charges for the services in question. Furthermore, customer service personnel must be properly trained to help consumers with questions and problems. The FCC should set minimum standards for customer service in this regard and monitor company compliance.

### **Conclusion**

We applaud the FCC for convening a public forum on this issue and for taking initiative on the addressing problems with the telephone billing system. To prevent abuses and to foster a fair competitiveness marketplace for telecommunications services, the FCC must ensure that consumers know what services they are being billed for, how much they are paying, and to whom. We will be happy to work with the FCC and with other interested parties to make Truth-in-Billing a reality that benefits consumers in every region. Thank you very much for considering our views.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Susan Grant", with a long horizontal flourish extending to the right.

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